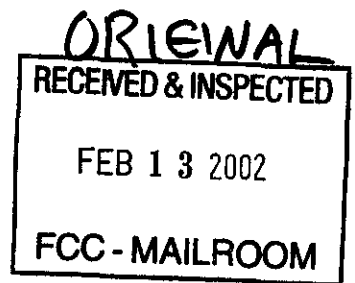


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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554



In the Matter of)
)
Section 68(a) of the Commission's) WT Docket No. 01-309
Rules Governing Hearing Aid-) RM-8658
Compatible Telephones)

To: The Commission

Cc: Judy Boley
Federal Communications Commission

Ed Springer
OMB Desk Officer

Qualex International

Policy Division
Wireless Telecommunications Bureau

REPLY COMMENTS OF GENE A. BECHTEL

1. My credentials for submitting these reply comments include that facts that (a) I and members of my family experience life-long hearing disabilities, (b) I use hearing aids and other assistive devices in the office, home and while participating in life experiences such as appearances in court rooms and in business conferences, (c) I am a member of and active in Self Help for Hard of Hearing People, Inc. (SHHH) and (d) I have practiced communications law for more than 40 years gaining experience in FCC rulemaking, policymaking and enforcement activities.

2. These reply comments are addressed to the comments of telecommunications industry parties who ask the Commission to continue an exemption without limitation for mobile phones from

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the Commission's hearing aid compatibility rule, e.g., Cellular Telecommunications and Internet Association (CTIA), Sprint PCS, Cingular Wireless LLC and perhaps others. While their comments dwell on complexities in achieving hearing aid compatibility with digital phones and identify other industry groups, such as hearing aid manufacturers, and government agencies, such as the Food and Drug Administration, who must play a role in successfully dealing with all of those complexities, the comments do not demonstrate or even claim that the commenting parties and their colleagues in the telecommunications industry have brought their enormous financial and technical resources fully to bear in doing everything reasonably within their power to achieve compatibility. So long as the telecommunications industry is unconditionally exempt from the law, its members will be in the real-world position to make progress in the matter only to the extent and only on the time table that suits their corporate interests.

3. That surely must be unacceptable. In so saying, this is not to find any fault with any party in the telecommunications industry. These parties are commercial businesses, acting in their own self interests including the interests of their stockholders. They are not eleemosynary institutions. The development of digital telephones for the hearing impaired is not a central marketing objective. While that market is growing, it may never become one. However, in our nation, in dealing with the needs of the disabled community in general and the hearing

impaired community in particular, that is not how society - acting through its duly elected representatives in Washington - wants it to work.

4. In the Telecommunications for Disabled Act of 1982, the Hearing Aid Compatibility Act of 1988 and the Telecommunications Act of 1996, the Congress with support from both sides of the aisle and with the concurrence of three Presidents, also reflecting leadership of both parties, has repeatedly made clear its will that access to state-of-the-art telecommunications facilities and services for hearing impaired individuals is an important national priority.

5. Given the fundamental gulf between this goal and the nature of unrestrained commercial business, the required regulatory tool is "priming the pump." As federal legislation came down in the 1980's and again in the 1990's, the telephone industry and other commercial interests acted in the matter primarily when they had to. Each time when the FCC adopted new, tougher regulations under the Hearing Aid Compatibility Act, often over objections by affected industry parties, some progress was made. E.g., Hearing Aid Compatibility, 67 R.R.2d 1183 (1990) (credit card telephones and telephones in common areas); Hearing Aid Compatibility, 70 R.R.2d 1214 (1992) (telephones in the work place, hotels, health care facilities and prisons); Hearing Aid Compatible Telephones, 3 Comm.Reg. 766 (1996) (telephones in the work place, confined settings, hotels and motels; cost of compliance; volume control; equipment labeling; consumer

education). When the FCC invoked a statutory negotiated rulemaking mechanism, some progress also was made. E.g., action in March 1995 antecedent to the 1996 Report and Order just cited, 3 Comm.Reg, at 771.

6. Pleadings filed in response to the petition of the Wireless Access Coalition which led to the instant rulemaking proceeding provided two apparent examples of this regulatory peristalsis. (a) For an extended period of time, the adoption of final ANSI C63.19 standards had languished. The WAC petition was filed in October 2000. Shortly thereafter, in December 2000, CTIA announced that those standards would be adopted "in late January". Sometime in early 2001, the standards in fact were adopted. (b) The WAC petition was dated "October 7, 2000". Sometime in "October 2000" (the precise date was not specified), CTIA convened a conference call to review numerous advances that were being made in research and development relative to compatibility, for which credit was taken in its FCC filing. See comments of CTIA filed with regard to the WAC petition at pages 3, 6-7, and comments of American National Standards Institute filed in the current proceeding at page 2.

7. The pleadings filed by CTIA and others in the current proceeding play on the same old themes. The Commission is supplied a huge volume of documents, much of which is taken from research and proceedings in foreign countries which apparently have made greater advances than those extant here, and extended discussion regarding how the hearing aid industry and the Food

and Drug Administration must also help out in dealing with digital phones for the hearing impaired. While the pleadings dwell on obstacles to be overcome, they don't explain how others in their own telecommunications equipment industry have been able to develop satisfactory digital phones for use with hearing aids. Nor, as previously noted, do the pleadings make a compelling case - for that matter, any case at all - that the telecommunications industry has given this important national priority its best shot as would be done working on a product to which full commercial incentives and attitudes apply.

8. And when the telecommunications industry does that, the result is awesome. Since the genesis of wireless digital telephony only a few years ago in or about 1995, there has been an incredible explosion that may well be unmatched by the growth of any other single industry over such a short period of time in the nation's history. Mega-billion dollar companies with mega-billion dollar profits are possessed of the world's finest technical resources. They have flooded the marketplace with a bewildering array of innovative and competitive telephones, telephone gear, accessories, systems, options, choices, etc. etc. They have demonstrated an infinite capacity for designing and marketing digital products with phenomenal success.

9. In retrospect, it is hard to believe that wireless digital telephony was just emerging in 1995 when the exemption was granted. At that time, the precise nature of the fundamental technology that would be employed was uncertain. The FCC had

recently concluded multi-year proceedings relative to some 50 or 60 different technologies or contributions to technologies that potentially could be employed. The engineering bases of the infrastructure were in the embryonic state. In such a milieu, it may well have been understandable to cut the telecommunications industry some slack in terms of full compliance with the requirements of compatibility.

10. But in the year 2002, such beneficence to the industry at the expense of the hearing impaired should no longer be tolerated. Notwithstanding all of the Congressional legislation and the regulatory activities of the FCC and other agencies such as the Access Board, the hearing impaired citizens of our nation still do not have access to wireless digital telephony that is remotely on par with the access enjoyed by other citizens. The exemption has restrained governmental intrusion and put the interests of the disabilities community on hold while giving the telecommunications industry the unfettered opportunity to develop its commercial operations so spectacularly.

11. The case exists for revocation of the exemption. However, if the Commission is not persuaded to revoke the exemption categorically, the Commission should limit the exemption to establish a procedure for the filing and review of periodic reports on continuing work and progress by the telecommunications industry to the end that the regulatory peristalsis is measured in quarterly, semi-annual or even annual periods of time, rather than continuing to leave this important

national priority to the commercial marketplace in which the priority demonstrably has not been served.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Gene A. Bechtel', written over a horizontal line.

Gene A. Bechtel

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Courtesy copies to counsel for:

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Sprint PCS
Cingular Wireless LLC